



General Assembly

February Session, 2014

Raised Bill No. 412

LCO No. 2211



Referred to Committee on GENERAL LAW

Introduced by:
(GL)

***AN ACT CONCERNING THE ENFORCEMENT OF CERTAIN
OCCUPATIONAL LICENSING STATUTES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 20-332 of the 2014 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2014*):

4 (c) If, after a hearing in accordance with the regulations adopted by
5 the Commissioner of Consumer Protection, it appears that the
6 provisions of this chapter or the regulations adopted under this
7 chapter have been violated, in addition to the penalties in this chapter,
8 the appropriate examining board [, or] and the commissioner, [or the
9 commissioner's authorized agent,] either jointly or separately, shall
10 report such violation to the office of the state's attorney for the judicial
11 district in which such violation occurred.

12 Sec. 2. Section 20-341 of the general statutes is repealed and the
13 following is substituted in lieu thereof (*Effective October 1, 2014*):

14 (a) Any person who wilfully or negligently engages in or practices
15 the work or occupation for which a license is required by this chapter
16 or chapter 399b without having first obtained an apprentice permit or
17 a certificate and license for such work, as applicable, or who wilfully or
18 negligently employs or supplies for employment a person who does
19 not have a certificate and license for such work, or who wilfully or
20 negligently and falsely pretends to qualify to engage in or practice
21 such work or occupation, including, but not limited to, offering to
22 perform such work in any print, electronic, television or radio
23 advertising or listing when such person does not hold a license for
24 such work as required by this chapter, or who wilfully or negligently
25 engages in or practices any of the work or occupations for which a
26 license is required by this chapter after the expiration of such person's
27 license, shall be guilty of a class B misdemeanor, [provided] except that
28 no criminal charges shall be instituted against such person pursuant to
29 this subsection unless the work activity in question is reviewed by the
30 Commissioner of Consumer Protection, or the commissioner's
31 authorized agent, and the commissioner or such agent specifically
32 determines, in writing, that such work activity requires a license and is
33 not the subject of a bona fide dispute between persons engaged in any
34 trade or craft, whether licensed or unlicensed. Notwithstanding the
35 provisions of subsection (d) or (e) of section 53a-29 and subsection (d)
36 of section 54-56e, if the court determines that such person cannot fully
37 repay any victims of such person within the period of probation
38 established in subsection (d) or (e) of section 53a-29 or subsection (d) of
39 section 54-56e, the court may impose probation for a period of not
40 more than five years. The penalty provided in this subsection shall be
41 in addition to any other penalties and remedies available under this
42 chapter or chapter 416.

43 (b) When any person is found in violation of the provisions of this
44 section, the appropriate examining board and the commissioner, either
45 jointly or separately, shall, within forty-eight hours of such finding,
46 issue a cease work order to the person responsible for the violation and

47 deliver such order to such person. Such order shall require that any
48 person working at a worksite without a required license, permit or
49 certificate cease work and leave the worksite immediately. A copy of
50 the order shall be given to the examining board if issued by the
51 commissioner, and to the commissioner if issued by the examining
52 board. The examining board and the commissioner, either jointly or
53 separately, may request a municipal building official to issue a cease
54 work order in accordance with the provisions of subsection (c) of
55 section 29-261 or may notify a municipal building official of the
56 issuance of a cease work order issued by the examining board or the
57 commissioner. Any person issued a cease work order pursuant to this
58 subsection may request a hearing before the commissioner and the
59 appropriate examining board. Such request shall be made in writing to
60 the commissioner not more than ten days after the issuance of such
61 order. Such hearing shall be conducted in accordance with the
62 provisions of chapter 54.

63 ~~[(b)]~~ (c) The appropriate examining board ~~[or]~~ and the
64 Commissioner of Consumer Protection may, either jointly or
65 separately, after notice and hearing, impose a single civil penalty for
66 each violation on any person who engages in or practices the work or
67 occupation for which a license or apprentice registration certificate is
68 required by this chapter, chapter 394, chapter 399b or chapter 482
69 without having first obtained such a license or certificate, or who
70 wilfully or negligently employs or supplies for employment a person
71 who does not have such a license or certificate or who wilfully or
72 negligently and falsely pretends to qualify to engage in or practice
73 such work or occupation, or who engages in or practices any of the
74 work or occupations for which a license or certificate is required by
75 this chapter, chapter 394, chapter 399b or chapter 482 after the
76 expiration of the license or certificate or who violates any of the
77 provisions of this chapter, chapter 394, chapter 399b or chapter 482 or
78 the regulations adopted pursuant thereto. Such penalty shall be in an
79 amount not more than one thousand dollars for a first violation of this

80 subsection, not more than one thousand five hundred dollars for a
81 second violation of this subsection and not more than three thousand
82 dollars for each violation of this subsection occurring less than three
83 years after a second or subsequent violation of this subsection, except
84 that any individual employed as an apprentice but improperly
85 registered shall not be penalized for a first offense.

86 ~~[(c)]~~ (d) If an examining board or the Commissioner of Consumer
87 Protection imposes a civil penalty under the provisions of subsection
88 ~~[(b)]~~ (c) of this section as a result of a cease work order or violation
89 initially reported by a municipal building official in accordance with
90 subsection (c) of section 29-261, the commissioner shall, not less than
91 sixty days after collecting such civil penalty, remit one-half of the
92 amount collected to such municipality.

93 ~~[(d)]~~ (e) A violation of any of the provisions of this chapter shall be
94 deemed an unfair or deceptive trade practice under subsection (a) of
95 section 42-110b.

96 ~~[(e)]~~ (f) This section shall not apply to any person who (1) holds a
97 license issued under this chapter, chapter 394, chapter 399b or chapter
98 482 and performs work that is incidentally, directly and immediately
99 appropriate to the performance of such person's trade where such
100 work commences at an outlet, receptacle or connection previously
101 installed by a person holding the proper license, or (2) engages in work
102 that does not require a license under this chapter, chapter 394, chapter
103 399b or chapter 482.

104 Sec. 3. Subsection (a) of section 21a-8 of the general statutes is
105 repealed and the following is substituted in lieu thereof (*Effective*
106 *October 1, 2014*):

107 (a) The Department of Consumer Protection shall have the
108 following powers and duties with regard to each board or commission
109 transferred to the Department of Consumer Protection under section
110 21a-6:

111 (1) The department shall control the allocation, disbursement and
112 budgeting of funds appropriated to the department for the operation
113 of each board or commission transferred to said department.

114 (2) The department shall employ and assign such personnel as the
115 commissioner deems necessary for the performance of each board's or
116 commission's functions.

117 (3) The department shall perform all management functions,
118 including purchasing, bookkeeping, accounting, payroll, secretarial,
119 clerical, record-keeping and routine housekeeping functions.

120 (4) The department shall conduct any necessary review, inspection
121 or investigation regarding qualifications of applicants for licenses or
122 certificates, possible violations of statutes or regulations, accreditation
123 of schools, disciplinary matters and the establishment of regulatory
124 policy, and make recommendations to the appropriate board or
125 commission. In connection with any such investigation, the
126 Commissioner of Consumer Protection, or the commissioner's
127 authorized agent, may administer oaths, issue subpoenas, compel
128 testimony and order the production of books, records and documents.
129 If any person refuses to appear, to testify or to produce any book,
130 record or document when so ordered, a judge of the Superior Court
131 may make such order as may be appropriate to aid in the enforcement
132 of this section.

133 (5) The department shall administer any examinations necessary to
134 ascertain the qualifications of applicants for licenses or certificates and
135 shall issue licenses or certificates to qualified applicants. The
136 department shall maintain rosters of licensees or registrants and
137 update such rosters annually, and may provide copies of such rosters
138 to the public for an appropriate fee.

139 (6) The department shall conduct any necessary investigation and
140 follow-up in connection with complaints regarding persons subject to
141 regulation or licensing by the board or commission.

142 (7) The department shall perform any other function necessary to
143 the effective operation of the board or commission and not specifically
144 vested by statute in the board or commission.

145 (8) The department shall receive complaints concerning the work
146 and practices of persons licensed, registered or certified by such boards
147 or commissions and shall receive complaints concerning unauthorized
148 work and practice by persons not licensed, registered or certified by
149 such boards or commissions. The department shall distribute monthly
150 a list of all complaints received within the previous month to the
151 chairperson of the appropriate board or commission. The department
152 shall screen all complaints and dismiss any in which the allegation, if
153 substantiated, would not constitute a violation of any statute or
154 regulation. The department shall distribute notice of all such
155 dismissals monthly to the chairperson of the appropriate board or
156 commission. The department shall investigate any complaint in which
157 the allegation, if substantiated, would constitute a violation of a statute
158 or regulation under its jurisdiction. In conducting the investigation, the
159 commissioner may seek the assistance of a member of the appropriate
160 board, an employee of any state agency with expertise in the area, or if
161 no such member or employee is available, a person from outside state
162 service licensed to perform the work involved in the complaint. Board
163 or commission members involved in an investigation shall not
164 participate in disciplinary proceedings resulting from such
165 investigation. The Commissioner of Consumer Protection may dismiss
166 a complaint following an investigation if the commissioner determines
167 that such complaint lacks probable cause. Notice of such dismissal
168 shall be given only after approval by [the chairperson of] the
169 appropriate board or commission. The commissioner may authorize a
170 settlement if the settlement is approved by the complainant, the
171 practitioner, and the board or commission. [The] In cases that are not
172 authorized for settlement, the commissioner [may] shall bring a
173 complaint before the appropriate board or commission for a formal
174 hearing if the commissioner determines that there is probable cause to

175 believe that the offense alleged in the complaint has been committed
176 and that the practitioner named in the complaint was responsible. The
177 commissioner, or the commissioner's authorized agent, shall have the
178 power to issue subpoenas to require the attendance of witnesses or the
179 production of records, correspondence, documents or other evidence
180 in connection with any hearing of a board or commission. All
181 dispositions and final decisions by the Department of Consumer
182 Protection after an investigation into a complaint has begun shall be
183 forwarded to the chairperson of the appropriate board or commission
184 on a monthly basis.

185 (9) The department may contract with a third party, if the
186 commissioner deems it necessary and if the appropriate board or
187 commission consents, to administer licensing examinations and
188 perform all attendant administrative functions in connection with such
189 examination and to monitor continuing professional education
190 requirements, and may require the payment of a fee to such third
191 party.

192 Sec. 4. Section 21a-9 of the general statutes is repealed and the
193 following is substituted in lieu thereof (*Effective October 1, 2014*):

194 (a) With regard to the boards and commissions within the
195 Department of Consumer Protection, the Commissioner of Consumer
196 Protection and such boards (1) shall adopt uniform rules of procedure,
197 consistent with chapter 54, for hearings and other proceedings to be
198 conducted by the boards or commissions or by the commissioner and
199 for the giving of notice to persons affected by such proceedings, and
200 (2) may, where authorized by statute, adopt regulations regarding any
201 subject within the jurisdiction of a board or commission.

202 (b) Any rules of procedure and regulations adopted pursuant to this
203 section shall be adopted in accordance with chapter 54. No regulation
204 shall be adopted by the commissioner pursuant to this section until the
205 appropriate board or commission has [had reasonable opportunity to

206 review] approved the proposed regulation, [and to offer comments
207 thereon.]

208 (c) Each such board or commission may act in accordance with the
209 provisions of subdivision (7) of section 21a-7, and the commissioner
210 may act in accordance with the provisions of subdivision (3) of
211 subsection (b) of section 21a-8, in the case of a practitioner who: (1)
212 Engages in fraud or material deception in order to obtain a license,
213 registration or certificate issued by the board or commission or to aid
214 another in obtaining a license, registration or certificate issued by the
215 board or commission; (2) performs work beyond the scope of the
216 license, registration or certificate issued by the board or commission;
217 (3) illegally uses or transfers a license, registration or certificate issued
218 by the board or commission; (4) performs incompetent or negligent
219 work; (5) makes false, misleading or deceptive representations to the
220 public; (6) has been subject to disciplinary action similar to that
221 specified in subdivision (7) of section 21a-7 or subdivision (3) of
222 subsection (b) of section 21a-8 by a duly authorized professional
223 agency of the United States, any state within the United States, the
224 District of Columbia, a United States possession or territory or a
225 foreign jurisdiction; or (7) violates any provision of the general statutes
226 or any regulation [established] adopted thereunder [,] relating to the
227 practitioner's profession or occupation.

228 (d) As used in chapters 390, 391, 392, 393, 394, 396, 400g, 400j, 482
229 and 400l:

230 (1) "Certificate" includes the whole or part of any Department of
231 Consumer Protection permit which the department issues under
232 authority of the general statutes and which (A) authorizes practice of
233 the profession by certified persons but does not prohibit the practice of
234 the profession by others, not certified, (B) prohibits a person from
235 falsely representing that such person is certified to practice the
236 profession unless the person holds a certificate issued by the
237 department, and (C) requires as a condition of certification that a

238 person submit specified credentials to the department which attest to
239 qualifications to practice the profession.

240 (2) "License" includes the whole or part of any Department of
241 Consumer Protection permit, approval, or similar form of permission
242 which the department issues under authority of the general statutes
243 and which requires (A) practice of the profession by licensed persons
244 only, (B) demonstration of competence to practice by examination or
245 other means and meeting of certain minimum standards, and (C)
246 enforcement of standards by the department or regulatory board or
247 commission.

248 (3) "Registration" includes the whole or part of any Department of
249 Consumer Protection permit which the department issues under
250 authority of the general statutes and which (A) requires persons to
251 place their names on a list maintained by the department before they
252 can engage in the practice of a specified profession or occupation, (B)
253 does not require a person to demonstrate competence by examination
254 or other means, and (C) may be revoked or suspended by the
255 commissioner for cause.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2014</i>	20-332(c)
Sec. 2	<i>October 1, 2014</i>	20-341
Sec. 3	<i>October 1, 2014</i>	21a-8(a)
Sec. 4	<i>October 1, 2014</i>	21a-9

Statement of Purpose:

To specify the responsibilities of the Commissioner of Consumer Protection and examining boards regarding occupational licensing enforcement.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]